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Date: MARCH 23, 2006

To: EXAMINER GARG, YOGESH C.  
U.S. PATENT AND TRADEMARK OFFICE

Fax #: (571) 273-8300

From: FRANK C. NICHOLAS  
Phone #: (847) 424-2521

Client/Matter No.: AUS920010193US1 (9000/34)

# of Pages: 7  
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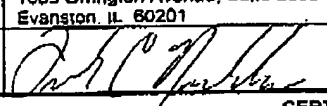
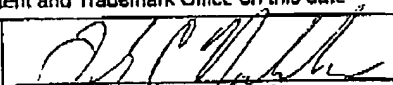
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<b>TRANSMITTAL FORM</b>  <i>(to be used for all correspondence after initial filing)</i>	Attorney Docket No.	AUS920010193US1 (9000/34)	<b>RECEIVED</b> <b>CENTRAL FAX CENTER</b>  <b>MAR 28 2006</b>
	Application Number	09/821,066	
	Filing Date	MARCH 29, 2001	
	First Named Inventor	KEITH K. T. HO	
	Group Art Unit	3625	
	Examiner	GARG, YOGESH C.	

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Amendment  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Status Letter  <input type="checkbox"/> One-Month Petition for Extension of Time Request (dup) <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement, PTO-1449 <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application	<input type="checkbox"/> Assignment Papers  <input type="checkbox"/> Drawing Sheets  <input type="checkbox"/> After Allowance Communication to Group  <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition  <input type="checkbox"/> To Convert a Provisional Application  <input type="checkbox"/> Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Small Entity Statement  <input type="checkbox"/> Request of Refund	<input type="checkbox"/> Appeal Communication to Board of Appeals and interferences  <input checked="" type="checkbox"/> Reply Brief  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Post Card Receipt  <input type="checkbox"/> Additional Enclosure(s) (please identify below): <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 09-0447 (IBM CORPORATION). A duplicate copy of this sheet is enclosed. <input checked="" type="checkbox"/> I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 09-0447 (IBM CORPORATION). A duplicate copy of this sheet is enclosed.

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	Claims After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	Rate	Add'l Fee
Total		Minus		0	x \$25=	0	x \$50=	
Indep.		Minus		0	x \$100=	0	x \$200=	
First Presentation of Multiple Dep. Claim					+ \$180=	---	+ \$360=	
					total add'l fee		total add'l fee	
					\$ 0		\$ 0	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual name	FRANK C. NICHOLAS Registration No. 33,983 CARDINAL LAW GROUP 1603 Orrington Avenue, Suite 2000 Evanston, IL 60201		
Signature		Date	March 23, 2006
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Signature	 FRANK C. NICHOLAS (33,983)	Date	March 23, 2006

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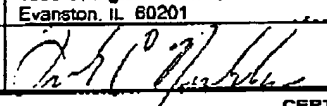
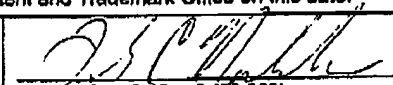
<h1>TRANSMITTAL FORM</h1> <p>(to be used for all correspondence after initial filing)</p>	Attorney Docket No.	AUS820010193US1 (9000/34)
	Application Number	09/821,068
	Filing Date	MARCH 23, 2001
	First Named Inventor	KEITH K. T. HO
	Group Art Unit	3625
	Examiner	GARG, YOGESH C.

ENCLOSURES (check all that apply)		
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Indep.		Minus		0
First Presentation of Multiple Dep. Claim				

Small Entry		or	Large Entry	
Rate	Add'l Fee		Rate	Add'l Fee
x \$25=	0		x \$50=	
x \$100=	0		x \$200=	
+ \$180=	—		+ \$360=	
total add'l fee			total add'l fee	
\$ 0			\$ 0	

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Firm or Individual name	FRANK C. NICHOLAS Registration No. 33,983 CARDINAL LAW GROUP 1603 Orrington Avenue, Suite 2000 Evanston, IL 60201		
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FRANK C. NICHOLAS (33 983)

Name of Appellant, assignee or registered representative

  
SignatureMarch 23, 2006  
Date of Signature

PATENT  
Case No. AUS920010193US1  
(9000/34)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

KEITH K.T. HO

Serial No.: 09/821,066

Filed: MARCH 29, 2001

For: METHOD AND SYSTEM FOR  
INVENTORY MANAGEMENT

Examiner: GARG, YOGESH C.

Group Art Unit: 3625

Conf. No.: 5343

REPLY BRIEF

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22202-1450

Dear Sir:

Appellants respectfully present their Reply Brief on Appeal as follows:

March 23, 2006

Case No.: AUS920010193US1 (9000/34)

Serial No.: 09/821,066

Filed: March 29, 2001

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The Examiner has failed to prove a case of anticipation under §102(e). Despite all the Examiner's allegations, the Examiner's burden to prove anticipation is clear – each and every element of the claim must be disclosed by the reference in as great detail as claimed.

Claim 1 requires defining a database for indicating functional relationships between a plurality of parts; and searching the database to identify one or more groups of functionally interchangeable parts. Each of the Examiner's attempts to show either element fails, as Scheer never discloses any such database, and does not disclose any such detail in as great detail as claimed.

The Examiner cites to paragraphs 147 and 171:

[0147] To further facilitate the intelligent order fulfillment planning procedure, for each line item within an order the agents may determine if the distributor has access to any equivalent products 302. In this regard, an equivalent product can be a product that has the same functions and/or features as a specified product. Preferably, the equivalency of functions and features is determined as a function of product definitions provided by the distributor. It is further desired that, if there are any supplier diversity requirements specified by the customer, these requirements will be taken into account when looking for equivalents.

[0171] If a line item cannot be filled using either the first or second iterations described above, a third iteration of the steps described previously may be employed wherein substitute items are considered 302. When substitute items are selected for consideration, it is preferred that the items identified as being substitutable be within customer specified parameter requirements (e.g., the customer can specify which item attributes can be varied and by how much). If the customer also has supplier diversity requirements, the system can take these into account when identifying suitable substitutes. If the use of substitute items does not produce a viable fulfillment plan, a further iteration of the above described steps may be performed if the customer has indicated a willingness to accept a back order delay for either a line item or for the entire order 304. In accordance with this fourth iteration, the delivery date will be modified as described previously such that the revised delivery time will be set to either the time from the best alternative that exceeds the original delivery time or the time required for a special order from the manufacturer if there exists no sourcing plan alternative using a manufacturer source. It is further noted that item substitution may cause the customer cost threshold to be exceeded. In this case, the customer should be presented with the selected third iteration plan candidate together with the results of the fourth iteration whereby the customer may choose to either pay the higher price for the plan that will meet the delivery requirements or wait for the lower price with a backordered fulfillment plan from iteration four.

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Case No.: AUS920010193US1 (9000/34)  
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The Examiner has not proven his alleged anticipation. At most, Scheer discloses determining if the distributor has access to any equivalent products (§147), *but does not say how*. Scheer discloses that a customer can be provided with an option to take a substitute (§171) but does not disclose how to determine what products are substitutes.

It is quite well settled that a "claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) and The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). See, MPEP §2131. Without disclosing a database for indicating functional relationships between a plurality of parts; and searching the database to identify one or more groups of functionally interchangeable parts, Scheer cannot anticipate these claims.

Withdrawal of the rejections to claims 1-16 is requested.

March 23, 2006  
Case No.: AUS920010193US1 (9000/34)  
Serial No.: 09/821,066  
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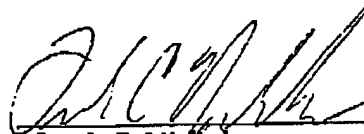
**CONCLUSION**

The Appellants respectfully submit that claims 1-16 fully satisfy the requirements of 35 U.S.C. §§102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested.

Dated: **March 23, 2006**

Respectfully submitted,  
KEITH K.T. HO

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